SBCivil Writ Petition No.1529/1995
(Jagjit Singh v. State of Rajasthan & Ors.)

Date of Order :: 8th September, 2005

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. M.R.Singhvi, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

The petitioner entered in the service of respondent being appointed as Lower Division Clerk in Command Area Development, Rajasthan Canal Project under an order dated 26.4.1975.

The petitioner was transferred from Canal Area Development, Rajasthan Canal Project, Suratgarh to Bhakra Irrigation Circle, Hanumangarh on 4.4.1981. The transfer of the petitioner was made at his own request. The respondents under an order dated 16.8.1994 declared a tentative seniority list of Lower Division Clerks working in Irrigation (North) Division wherein the name of the petitioner figures at Sr.No.190. The final seniority list was declared on 1.5.1995 wherein name of the petitioner is shown at Sr.No.121. The respondents while determining seniority of the petitioner have taken into consideration 4.4.1981 as the date of his appointment in existing circle and on that basis his seniority is reckoned. The seniority of the petitioner is reckoned from 4.4.1981 in pursuant to provisions of proviso xi-a to Rule 27 of the Rajasthan Subordinate Offices Ministerial Staff Rules, 1957 (hereinafter referred to

as “the Rules of 1957”) which prescribes that if a person is transferred from one department to another department at his own request then his seniority in the borrowing department shall be reckoned from the date he joined that department.

The contention of the petitioner is that he was not at all transferred from one department to another department, as such provisions of proviso xi-a to Rule 27 of the Rules of 1957 is not having any application in present controversy.

The controversy involved in present writ petition stands settled by this Court in the case of State of Rajasthan & Ors. v. Suresh Kumar Chhabra, SBCivil Writ Petition No.859/1993, decided today itself, wherein this Court has taken a view that transfer from one irrigation circle to another irrigation circle is not a transfer from one department to another department, as such the provisions of proviso xi-a to Rule 27 of the Rules of 1957 cannot be applied while determining seniority of LDCs who have been transferred from one irrigation circle to another irrigation circle of the irrigation department.

In view of it the respondents erred while reckoning seniority of the petitioner by taking into consideration 4.4.1981 as his date of appointment.

Accordingly, this writ petition succeeds and the same is allowed. The seniority list impugned is declared illegal to the extent it reckons seniority of the petitioner w.e.f. 4.4.1981, the date on which the petitioner joined duties in Bhakra Irrigation Circle. The respondents are directed to reckon seniority of the petitioner from the date of his initial appointment in irrigation department at Canal Area Development, Rajasthan Canal Project, Hanumangarh.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.